

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): JEREMY BURRAGE,
5 INDIVIDUALLY AND AS PERSONAL
6 REPRESENTATIVE OF THE ESTATE OF
NANCY BURRAGE, DECEASED

7 Plaintiff(s)

8 v.

9 [X] AMYLIN PHARMACEUTICALS, LLC,
10 [X] ELI LILLY AND COMPANY,
11 [] MERCK SHARP & DOHME CORP.,
12 [] NOVO NORDISK INC.,

13 (Check all the above that apply)

14 Defendants

Pertains To Civil Action No.:
3:13-cv-02096-AJB-MDD

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**AMENDED SHORT FORM
COMPLAINT FOR
DAMAGES**

Case No.:
13md2452 AJB(MDD)

15 **AMENDED SHORT FORM COMPLAINT FOR DAMAGES**

16 COMES NOW the Plaintiff(s) named herein, and for Complaint against the
17 Defendants named herein, incorporates and fully adopts the Master Form Complaint
18 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows
19 the Court as follows:

20 **JURISDICTION AND VENUE**

21 1. Jurisdiction in this Complaint is based on:

22 [X] Diversity of Citizenship

23 [] Other (As set forth below, the basis of any additional ground for
24 jurisdiction must be pleaded in sufficient detail as required by the
25 applicable Federal Rules of Civil Procedure): _____.

26 2. District Court and Division in which you might have otherwise filed
27 absent the direct filing order entered by this Court: Northern District of Alabama,
28 Western Division.

1 3. Plaintiff(s) further adopts the allegations contained in the following
2 paragraphs of the Jurisdiction and Venue section of the Master Complaint:

3 [X] Paragraph 10;

4 [X] Paragraph 11;

5 [X] Paragraph 12;

6 [X] Paragraph 13;

7 [X] Paragraph 14;

8 [X] Paragraph 15; and/or

9 [] Other allegations as to jurisdiction and venue (Plead in sufficient detail
10 in numbered paragraphs (numbered to begin with 3(a)) as required by the
11 applicable Federal Rules of Civil Procedure): _____.

12 PLAINTIFF/INJURED PARTY INFORMATION

13 4. Injured/Deceased Party's Name: Nancy Burrage (the "Injured Party").

14 5. Any injury (or injuries) suffered by the Injured Party in addition to
15 those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to
16 have been caused by the drug(s) ingested as set forth below (put "None" if
17 applicable): None.

18 6. Injured Party's spouse or other party making loss of consortium claim:
19 Jeremy Burrage.

20 7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
21 otherwise incapacitated (i.e., administrator, executor, guardian, representative,
22 conservator, successor in interest): Jeremy Burrage, as Personal Representative of
23 the Estate of Charlene Burrage.

24 8. City(ies) and State(s) of residence of Injured Party at time of ingestion
25 of the Drug(s): Tuscaloosa, AL.

26 9. City and State of residence of Injured Party at time of pancreatic
27 cancer diagnosis (if different from above): Tuscaloosa, AL.

1 10. City and State of residence of Injured Party at time of diagnosis of
2 other Injury(ies) alleged in Paragraph 5 (if different from above): Not Applicable.

3 11. If applicable, City and State of current residence of Injured Party (if
4 different from above): Not Applicable.

5 12. If applicable, City and State of residence of Injured Party at time of
6 death (if different from above): Tuscaloosa, AL.

7 13. If applicable, City and State of current residence of each Plaintiff,
8 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,
9 guardian, representative, conservator, successor in interest): Northport, AL.

10 14. Check box(es) of product(s) (the "Drugs") for which you are making
11 claims in this Complaint:

12 ☒ Byetta. Dates of use: 03/15/2007-11/30/2009.

13 ☐ Januvia. Dates of use: _____.

14 ☐ Janumet. Dates of use: _____.

15 ☐ Victoza. Dates of use: _____.

16 15. Date of pancreatic cancer diagnosis: 1/22/2013.

17 16. If applicable, date of other injuries alleged in Paragraph 5: None.

18 17. If applicable, date of death: November 9, 2013.

19 DEFENDANTS NAMED HEREIN

20 (Check Defendants against whom Complaint is made)

21 ☒ Amylin Pharmaceuticals, LLC

22 ☒ Eli Lilly and Company

23 ☐ Merck Sharp & Dohme Corp.

24 ☐ Novo Nordisk Inc.

25 CAUSES OF ACTION

26 (Counts in the Master Complaint brought by Plaintiff(s))

27 ☒ Count I – Strict Liability – Failure to Warn

28 ☒ Count II – Strict Liability – Design Defect

1 [X] Count III – Negligence
2 [X] Count IV – Breach of Implied Warranty
3 [X] Count V – Breach of Express Warranty
4 [X] Count VI – Punitive Damages
5 [X] Count VII – Loss of Consortium
6 [X] Count VIII – Wrongful Death
7 [X] Count IX – Survival Action
8 [] Other Count(s): _____

9 Plead factual and legal basis for any Other Count(s) in separately numbered
10 Paragraphs (beginning with Paragraph 18) that provide sufficient information
11 and detail to comply with the applicable Federal Rules of Civil Procedure.
12 _____

13 PRAYER FOR RELIEF AND, AS APPLICABLE,

14 PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

15 WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master
16 Complaint filed in MDL No. 2452.

17 JURY DEMAND

18 Plaintiff(s) hereby [X] demands [] **does not** demand a trial by jury on all
19 issues so triable.

20
21 Dated: March 20, 2014

Respectfully submitted,
WATTS GUERRA LLP

22
23 s/Ryan L. Thompson
24 Ryan L. Thompson
25 Texas State Bar No. 24046969
26 5250 Prue Road, Suite 525
27 San Antonio, Texas 78240
28 Office: 210.448.0500
Fax: 210.448.0501
r1t-bulk@wattsguerra.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

And

J. Michael Comer
Patterson Comer Law Firm
303 Main Ave., Ste. A.
Northport, AL 35476
Office: 205-759-3939
Fax: 205-795-3931
jmikecomer@yahoo.com

Attorneys for Plaintiff